MARY JO WHITE
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Southern District of New York
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | | |
|---|---|---|
| UNITED STATES OF AMERICA, | : | THIRD AMENDED COMPLAINT |
| Plaintiff, | : | 96 Civ. 2527 (AKH) |
| v. | : | |
| A $20 GOLD COIN, KNOWN AS A 1933 "DOUBLE EAGLE" MINTED AT THE UNITED STATES MINT IN PHILADELPHIA, PENNSYLVANIA, | : | |
| Defendant-in-rem, | : | |
| -and - | : | |
| STEPHEN C. FENTON, | : | |
| Defendant. | : | |

Plaintiff United States of America, by its attorney, Mary Jo White, United States Attorney for the Southern District of New York, Assistant United States Attorney Jane A. Levine, of counsel, for its complaint alleges as follows:

## I. JURISDICTION AND VENUE

1. This is an action brought by the United States of America pursuant to 18 U.S.C. §§ 542, 545, 981(a)(1)(C) and 19

U.S.C. § 1595 a(c), seeking the forfeiture of all right, title and interest in personal property described as a $20 Gold Coin, Known as a 1933 "Double Eagle" minted at the United States Mint in Philadelphia, Pennsylvania, (the "defendant-in-rem gold coin"), seized as evidence on February 8, 1996 in the Southern District of New York.

2. The United States of America further brings this action for declaratory judgment pursuant to 28 U.S.C. § 2201, for the purpose of determining a question of actual controversy between the parties, as set forth more fully below, to wit, whether the United States is legal title owner of the defendant-in-rem gold coin.

3. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1345 and 1355. Venue is proper because the defendant-in-rem gold coin is located in the Southern District of New York.

## II. PROBABLE CAUSE FOR FORFEITURE

4. Between in or about March 1933 and in or about May 1933, the United States Government lawfully minted approximately 445,500 "Double Eagle" $20 gold coins at the United States Mint in Philadelphia, Pennsylvania.

5. Under the laws and regulations governing issuance of coinage, the 1933 "Double Eagle" $20 gold coins could only be issued for circulation by the Mint upon the receipt of an order directing such issuance from the Treasurer of the United States.

6. On or about April 5, 1933, President Franklin D. Roosevelt issued Executive Order No. 6102 requiring the delivery to the United States Government of all gold coin with the exception of gold coin and gold certificates in an amount not exceeding $100 and gold coins having a recognized special value to collectors of rare and unusual coins.

7. Accordingly, the Philadelphia Mint never received an order from the Treasurer directing it to issue and circulate the 1933 "Double Eagle" $20 gold coins.

8. The Philadelphia Mint delivered two of the 1933 "Double Eagle" $20 gold coins to the Smithsonian Institution for inclusion in its National Numismatic Collection. Twenty-nine other 1933 "Double Eagle" $20 gold coins were set aside for testing by the Assay Commission and were destroyed. The remaining 1933 "Double Eagle" $20 gold coins on hand at the Philadelphia Mint were ordered reduced to bullion.

9. The 1933 "Double Eagle" $20 gold coins never became currency or legal tender of the United States, and therefore remained the property of the United States Government at all times.

10. Some of the 1933 "Double Eagle" $20 gold coins were believed to have been stolen from the Philadelphia Mint, or removed from the Philadelphia Mint through fraudulent breach of trust.

11. As a consequence, any extant 1933 "Double Eagle" $20 gold coin was considered within the numismatic community to be one of the rarest and most valuable United States coins.

12. In or about November 1995, Jasper Parrino

("Parrino"), a coin dealer located in Kansas City, Missouri, contacted a Secret Service confidential informant ("CI") who is a coin dealer specializing in acquisitions and liquidations of investment grade coins.

13. Parrino informed the CI that he knew someone who had a 1933 "Double Eagle" $20 gold coin for sale for approximately $1.5 million. Parrino asked the CI if he knew of anyone who would be interested in buying the coin.

14. In or about December 1995, the CI met with a Special Agent of the United States Secret Service and informed him of Parrino's representations regarding the 1933 "Double Eagle" $20 gold coin.

15. On or about December 18, 1995, the CI told Parrino that he knew of someone who was interested in purchasing the 1933 "Double Eagle" $20 gold coin for approximately $750,000. Parrino indicated that $750,000 was not enough money for the coin.

16. On or about January 5, 1996, the CI and Parrino agreed on a price of approximately $1.5 million for the 1933 "Double Eagle" $20 gold coin. Parrino informed the CI that the coin and the seller of the coin were overseas.

17. On or about January 17, 1996, the CI placed a monitored phone call to Parrino in which Parrino indicated, in substance and in part, that the seller of the coin was reluctant to bring the coin to the United States because "it is okay over there, but it's not okay over here."

18. Subsequently, in or around January 1996, Parrino and

the CI made a plan to meet in New York, New York. It was agreed that Parrino would accompany the seller who would bring the 1933 "Double Eagle" $20 gold coin. The CI agreed to bring the buyer and a coin expert who could verify if the coin was in fact a 1933 "Double Eagle" $20 gold coin. If the coin expert indicated that the coin was in fact a 1933 "Double Eagle" $20 gold coin, then the buyer was to have the approximately $1.5 million transferred to a bank account in Kansas City, Missouri belonging to Parrino.

19. On or about February 7, 1996, Stephen C. Fenton ("Fenton") of Knightsbridge Coins, 43 Duke Street, London, England, through his Customs broker, Jet Air Service, Inc., sought approval from the United States Customs Service to enter the defendant-in-rem gold coin and numerous other valuable coins into the United States through John F. Kennedy International Airport in Jamaica, New York.

20. Specifically, on February 7, 1996, Knightsbridge Coins filed a Customs Forms 3461 "Entry/Immediate Delivery" (Entry No. 609-0253275-7) pertaining to the proposed importation of the coins. See Exhibit A (attached). On the Form 3461, the merchandise is described as "U.S. & foreign gold coins." The accompanying commercial invoice from Knightsbridge Coins describes the items to be imported as 72 gold and 3 silver United States coins, and 22 gold and 6 silver British and Australian coins valued at 477,000 or $742,450.50.

21. A letter to the United States Customs Service from Jet Air Service, Inc. acting as attorney-in-fact for Knightsbridge

Coins regarding Entry No. 609-0253275-7 states as follows:

> This letter is in regard to the above mentioned entry number. The imported items were legal tender U.S. gold coins minted by the United States Government between 1830 and 1932. The coins are of various denominations; i.e. 20 dollar, 10 dollar, 5 dollar, 2 ½ dollar. These were minted at various mints and are of various qualities and designs; i.e. Liberty, Independence, St. Gauden.

See Exhibit B (attached).

22. On or about February 7, 1996, the Customs Service authorized Entry No. 609-0253275-7.

23. On or about February 8, 1996, the CI and two undercover Secret Service Special Agents met with Parrino and Fenton at the Waldorf-Astoria Hotel in New York, New York.

24. During the meeting at the Waldorf-Astoria Hotel, Parrino and Fenton provided the CI with the defendant-in-rem gold coin. Subsequently, Parrino asked, in substance and in part, how the value of the defendant-in-rem gold coin would be affected in the event the coin transaction could be "legalized." Fenton replied, in substance and in part, that it would double the value.

## III. CLAIM FOR FORFEITURE

25. Incorporated herein are the allegations contained in paragraphs 1 through 23 of this Verified Complaint.

26. The statutory provisions pursuant to which the defendant-in-rem gold coin is subject to forfeiture are as follows:

a. 18 U.S.C. § 2314 provides criminal penalties for

[w]hoever transports, transmits, or transfers in interstate or foreign commerce any goods, wares, merchandise, securities or money, of the value of $5,000 or more, knowing the same to have been stolen, converted or taken by fraud

b. 18 U.S.C. § 542 provides criminal penalties for

[w]hoever enters or introduces, or attempts to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance, or makes any false statement in any declaration without reasonable cause to believe the truth of such statement, or procures the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement

c. 18 U.S.C. § 545 subjects to forfeiture merchandise which has been "imported or brought into the United States contrary to law. . ."

d. 18 U.S.C. § 981(a)(1)(C) subjects to forfeiture

any property which "constitutes or is derived from proceeds traceable to a violation of section . . . 542, 545. . . "

e. 19 U.S.C. § 1595a(c) provides in pertinent part:

Merchandise which is introduced or attempted to be introduced into the United States contrary to law shall be treated as follows:

(1) The merchandise shall be seized and forfeited if it --

(A) is stolen, smuggled, or clandestinely imported or introduced.

27. The defendant-in-rem gold coin is subject to forfeiture pursuant to 18 U.S.C. §§ 545, 981(a)(1)(C) and 19 U.S.C. 1595a(c) because there is probable cause to believe that it was

introduced into the United States in violation of 18 U.S.C. § 542, in that the defendant-in-rem gold coin was imported by Fenton and/or Knightsbridge Coins by means of a fraudulent or false invoice and declaration, and by the making of a false statement in a declaration without reasonable cause to believe the truth of such statement, and by the procuring of the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement. Specifically, Fenton and/or Knightsbridge Coins or its authorized agent falsely stated, on a letter submitted to United States Customs in connection with the entry of the defendant-in-rem gold coin, that Knightsbridge Coins was importing only "legal tender U.S. Gold Coins Minted by the United States Government between 1830 and 1932."

28. The defendant-in-rem gold coin is further subject to forfeiture pursuant to 18 U.S.C. §§ 545, 981(a)(1)(C) and 19 U.S.C. 1595a(c) because there is probable cause to believe that it is stolen property introduced into the United States contrary to law, in that the gold coin was stolen from the United States Mint in Philadelphia, Pennsylvania and thereafter was illegally transported and transferred in foreign commerce by Fenton and/or Knightsbridge Coins, knowing it to have been stolen, and valued in an amount in excess of $5,000, in violation of 18 U.S.C. § 2314.

29. By reason of the above, the defendant-in-rem gold coin is subject to forfeiture to the United States of America.

## IV. AS AND FOR A FIRST CAUSE OF ACTION AGAINST STEPHEN C. FENTON FOR DECLARATORY JUDGMENT

30. Incorporated herein are the allegations contained in

paragraphs 1 through 24 of this Third Amended Verified Complaint.

31. Plaintiff United States of America seeks a declaratory judgement pursuant to 28 U.S.C. § 2201 that it is and has at all times been the legal title owner of the 1933 Double Eagle $20 gold coin ("defendant-in-rem gold coin") hereinbefore described.

WHEREFORE, plaintiff United States of America prays that process be issued to enforce the forfeiture of the defendant-in-rem gold coin and that all persons having an interest in the defendant-in-rem gold coin be cited to appear and show cause why the forfeiture should not be decreed, and that this Court decree forfeiture to the defendant-in-rem gold coin to the United States of America for disposition according to law; and

Plaintiff further prays that this Court determine and adjudicate the rights of the parties with respect to the defendant-in-rem gold coin, that this Court find and declare that the defendant has no ownership or interest in the said defendant-in-rem gold coin hereinbefore described; that this Court find and declare that plaintiff is the true owner of the defendant-in-rem gold coin; that plaintiff have judgment against defendant for the recovery and possession of the said defendant-in-rem gold coin hereinbefore described, and that this Court grant plaintiff such

further relief as this Court may deem just and proper, together with the costs and disbursements of this action.

Dated: New York, New York
May 13, 1999

MARY JO WHITE
United States Attorney for the
Southern District of New York
Attorney for Plaintiff
United States of America

By: _____

JANE A. LEVINE (JAL-3332)
Assistant United States Attorney
One St. Andrew's Plaza
New York, New York 10007
Telephone: (212) 637-1063

EXHIBIT A

Telephone:
(718) 656-7430

# JET AIR SERVICE, INC.

*Customs Brokers and Freight Forwarders*

FAX:
(718) 244-0942

U.S. CUSTOMS SERVICE
CST#249
BLDG 80 JFKIA
JAMAICA,N.Y. II430

RE: ENTRY# 609-0253275-7
JAS# 253275
IMPORTER KNIGHTSBRIDGE COINS

SIRS,

THIS LETTER IS IN REGARD TO THE ABOVE MENTIONED ENTRY NUMBER. THE IMPORTED ITEMS WERE LEGAL TENDER U.S. GOLD COINS MINTED BY THE UNITED STATES GOVERNMENT BETWEEN 1830 AND 1932. THE COINS ARE OF VARIOUS DENOMINATIONS; IE., 20 DOLLAR, 10 DOLLAR, 5 DOLLAR, 2½ DOLLAR. THESE WERE MINTED AT VARIOUS MINTS AND ARE OF VARIOUS QUALTIES AND DESIGNS; IE., LIBERTY, INDEPENDENCE, ST.GAUDEN.

YOURS TRULY,

LAWRENCE BAKER
ATTY-IN-FACT

CARGO SERVICE BUILDING No. 80 • J.F.K. INTERNATIONAL AIRPORT • JAMAICA, NEW YORK 11430

Exhibit B

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

Form Approved
OMB No. 1515-0...

# ENTRY/IMMEDIATE DELIVERY

JET AIR SERVICE, INC.
CARGO BDG 80 JFK AIRPORT

JAMAICA NY 11430

AUI Certi
C.H. Box
Broker Code: 60

19 CFR 142.3, 142.16, 142.22, 142.24

| | | | |
|---|---|---|---|
| 1. ARRIVAL DATE: 020796 | 2. ELECTED ENTRY DATE: | 3. ENTRY TYPE CODE/NAME: 01 (Consumer) | 4. ENTRY NUMBER: 609-0253275 |
| 5. PORT: 4701 | 6. SINGLE TRANS. BOND: | 7. BROKER/IMPORTER FILE NUMBER: 253275 | |
| | 8. CONSIGNEE NUMBER: 943901-00564 | | 9. IMPORTER NUMBER: Same |
| 10. ULTIMATE CONSIGNEE NAME: KNIGHTSBRIDGE COINS 43 DUKE STREET LONDON, ENGLAND UK SW1Y6DD | | 11. IMPORTER OF RECORD NAME: Same | |
| 12. CARRIER CODE: BA | 13. VOYAGE/FLIGHT/TRIP: 003 | 14. LOCATION OF GOODS-CODE(S)/NAME(S): E793 BRITISH AIRWAYS (BA | |
| 15. VESSEL CODE/NAME: BRITISH AIRWAYS | | | |
| 16. U.S. PORT OF UNLOADING: 4701 | 17. MANIFEST NUMBER: | 18. B/L NUMBER: | 19. TOTAL VALUE: 742451 |

20. DESCRIPTION OF MERCHANDISE: U.S. & FOREIGN GOLD COINS

| 21. IT/BL/AWB CODE | 22. IT/BL/AWB NO. | 23. MANIFEST QUANTITY | 24. H.S. NUMBER | 25. COUNTRY OF ORIGIN | 26. MANUFACTURER ID. |
|---|---|---|---|---|---|
| M | 12500000000 | | 7118.90.0019 | GB | GBKNIC01431 |
| H | HANDCARRY | 1 | 7118.90.0019 | AU | GBKNIC01431 |
| | | | 9801.00.1098 | US | GBKNIC01431 |
| | | | | | |
| | | | | | |
| | | | | | |

27. CERTIFICATION

I hereby make application for entry/immediate delivery. I certify that the above information is accurate, the bond is sufficient, valid, and current, and that all requirements of 19 CFR Part 142 have been met.

SIGNATURE OF APPLICANT: X JET AIR SERVICE, INC

PHONE NO.: 718-656-7430

DATE: 2/07/96

28. CUSTOMS USE ONLY

☐ OTHER AGENCY ACTION REQUIRED, NAMELY:

☐ CUSTOMS EXAMINATION REQUIRED.

☐ ENTRY REJECTED, BECAUSE:

DELIVERY AUTHORIZED: SIGNATURE: D

29. BROKER OR OTHER GOVT. AGENCY USE

Exam Bldg. E793 BRITISH AIRWAYS (BA
Container 0

Paperwork Reduction Act Notice: This information is needed to determine the admissibility of imports into the United States and to provide information for the examination of the cargo and to establish the liability for payment of duties and taxes. Your response is necessary.

Customs Form 3461